

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

SAUL EDWARD SAYLORS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CV 118-115  
(Formerly CR 116-048)

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**ORDER**

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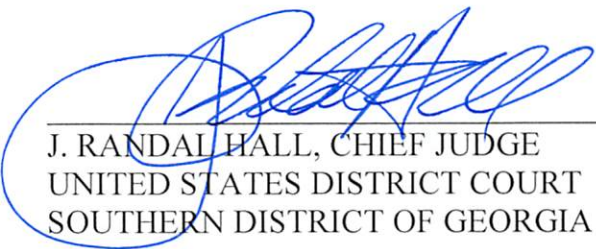
After a careful, de novo review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which no objections have been filed. Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion and **DENIES** without an evidentiary hearing the motion filed pursuant to 28 U.S.C. § 2255.

After the Magistrate Judge's Report and Recommendation was filed, the Supreme Court published its opinion in United States v. Davis, 588 U.S. \_\_\_, (2019), and held 18 U.S.C. § 924(c)(3)(B) was unconstitutionally vague, overruling Eleventh Circuit precedent cited by the Magistrate Judge in his Report and Recommendation. (See doc. no. 18, pp. 12-13.) However, the result in this case does not change in light of Davis because, as stated by the Magistrate Judge, Petitioner signed a valid collateral attack waiver and his conviction for Hobbs Act Robbery qualified as a crime of violence under § 924(c)(3)(A), otherwise known as the "use-of-force" or "elements" clause. Thus, as stated by the Magistrate Judge, Petitioner's arguments in his briefs, (doc. nos. 5, 12), with respect to § 924(c)(3)(B) are moot. (Doc. no. 18, pp. 8-12.)

Further, a federal prisoner must obtain a certificate of appealability (“COA”) before appealing the denial of his motion to vacate. This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in Slack v. McDaniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case.<sup>1</sup> Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the Court **CLOSES** this civil action and **DIRECTS** the Clerk to enter final judgment in favor of Respondent.

SO ORDERED this 27<sup>th</sup> day of June, 2019, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

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<sup>1</sup>“If the court denies a certificate, a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2255 Proceedings.